

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 09-0516

ORIGINAL

STATE OF MONTANA,

Plaintiff and Appellee,

v.

NIEL KELLY MULLARKEY,

Defendant and Appellant.

FILED

MAY 18 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA**MOTION FOR EXTENSION OF TIME
AND AFFIDAVIT IN SUPPORT**

COMES NOW, Eli M. Parker, counsel of record for Defendant and Appellant, and respectfully requests an extension of time until June 21, 2010, in which to prepare, file, and serve the Appellant's reply brief in the above-entitled matter. In support of this motion, undersigned counsel respectfully submits the following affidavit.

Respectfully submitted this 18th day of May, 2010.

OFFICE OF THE STATE PUBLIC DEFENDER
Region 2 – Missoula
610 North Woody
Missoula, MT 59802

By: *Joselyn Hunt*
for ELI M. PARKER
Assistant Public Defender

STATE OF MONTANA)
 : ss.

County of Lewis and Clark)

I, Joslyn Hunt, being first duly sworn upon my oath, depose and state as follows:

1. I am a licensed, practicing attorney in the State of Montana, and am currently employed by the Office of State Public Defender, Appellate Defender Office, as Chief Appellate Defender.

2. In my capacity as Chief Appellate Defender, I have assigned Eli M. Parker to handle the above-entitled matter.

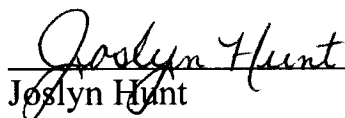
3. The Appellant's reply brief was first due on May 7, 2010. The reply brief is presently due on May 21, 2010.

4. Mr. Parker requires additional time to communicate with his client. Mr. Mullarkey has requested additional time to determine the final course of his appeal.

5. Mr. Parker cannot meet the present deadline for filing the Appellant's reply brief.

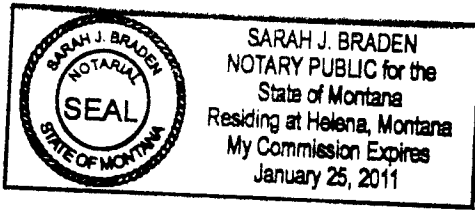
6. Opposing counsel has been contacted concerning this motion and does not object.

7. Further your affiant sayeth naught.



Joslyn Hunt

SUBSCRIBED AND SWORN to before me this 18th day of May, 2010.



Sarah J. Braden
Sarah J. Braden

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and accurate copy of the foregoing

Motion for Extension of Time and Affidavit in Support to be mailed to:

STEVE BULLOCK
Montana Attorney General
MARK MATTIOLI
Assistant Attorney General
215 North Sanders
P.O. Box 201401
Helena, MT 59620-1401

LEO J. GALLAGHER
Lewis and Clark County Attorney
228 Broadway-Courthouse
Helena, MT 59601

NIEL MULLARKEY
942 N. Fee
Helena, MT 59601

DATED: 5/18/2010

Rachel Smith